

SENATE BILL No. 345

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-8.1-8-8.7; IC 22-4; IC 31-25-4-31; IC 34-30-2.

Synopsis: Collection of unemployment contributions. Requires the department of workforce development to operate a data match system with financial institutions doing business in Indiana for use only in the collection of unpaid final assessments of employer contributions for the state's unemployment insurance system. Makes conforming amendments.

Effective: Upon passage.

Jackman, Weatherwax

January 14, 2008, read first time and referred to Committee on Pensions and Labor.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE BILL No. 345

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-8.1-8-8.7, AS ADDED BY P.L.226-2007,
- 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: Sec. 8.7. (a) The department shall operate a data
- 4 match system with each financial institution doing business in Indiana.
- 5 (b) Each financial institution doing business in Indiana shall provide
- 6 information to the department on all individuals:
- 7 (1) who hold one (1) or more accounts with the financial
- 8 institution; and
- 9 (2) upon whom a levy may be issued by the department or a
- 10 county treasurer.
- 11 (c) To provide the information required under subsection (b), a
- 12 financial institution shall do one (1) of the following:
- 13 (1) Identify individuals by comparing records maintained by the
- 14 financial institution with records provided by the department by:
- 15 (A) name; and
- 16 (B) either:
- 17 (i) Social Security number; or



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(ii) tax identification number.

(2) Comply with IC 31-25-4-31(c)(2). The child support bureau established by IC 31-25-3-1 shall regularly make reports submitted under IC 31-25-4-31(c)(2) ~~available~~ **accessible** to the department or its agents for use only in tax judgment and levy administration.

(d) The information required under subsection (b) must:

(1) be provided on a quarterly basis; and

(2) include the:

(A) name;

(B) address of record; and

(C) either:

(i) the Social Security number; or

(ii) tax identification number;

of individuals identified under subsection (b).

(e) When the department determines that the information required under subsection (d)(2) is identical for an individual who holds an account with a financial institution and an individual against whom a levy may be issued by the department or a county treasurer, the department or its agents shall provide a notice of the match, in compliance with section 4 of this chapter, if action is to be initiated to levy or encumber the account.

(f) This section does not preclude a financial institution from exercising its right to:

(1) charge back or recoup a deposit to an account; or

(2) set off from an account held by the financial institution in which the individual has an interest in any debts owed to the financial institution that existed before:

(A) the state's levy; and

(B) notification to the financial institution of the levy.

(g) A financial institution ordered to block or encumber an account under this section is entitled to collect its normally scheduled account activity fees to maintain the account during the period the account is blocked or encumbered.

(h) All information provided by a financial institution under this section is confidential and is available only to the department or its agents for use only in levy collection activities.

(i) A financial institution providing information required under this section is not liable for:

(1) disclosing the required information to the department or the child support bureau established by IC 31-25-3-1;

(2) blocking or surrendering an individual's assets in response to

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a levy imposed under this section by:

- (A) the department; or
- (B) a person or an entity acting on behalf of the department; or
- (3) any other action taken in good faith to comply with this section.

(j) A person or an entity that is acting on behalf of the department is not liable for any action taken in good faith to collect the state's levy under this section unless:

- (1) the action is contrary to the department's direction to the person or entity; or**
- (2) for information provided under this section, the person or entity acts with:**

- (A) deliberate ignorance of the truth or falsity of the information; or**
- (B) reckless disregard for the truth or falsity of the information.**

~~(j)~~ **(k)** The department or its agents shall pay a financial institution performing the data match required by this section a reasonable fee, as determined by the department, of at least five dollars (\$5) for each levy issued to the financial institution.

~~(k)~~ **(l)** This section does not prevent the department or its agents from encumbering an obligor's account with a financial institution by any other remedy available under the law.

SECTION 2. IC 22-4-29-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14. (a) The department shall operate a data match system with each financial institution doing business in Indiana.**

(b) Each financial institution doing business in Indiana shall provide information to the department on all employers:

- (1) that hold one (1) or more accounts with the financial institution; and**
- (2) that are subject to a warrant issued by the commissioner for failure to pay a final assessment for contributions, interest, penalties, and any associated collection costs.**

(c) To provide the information required under subsection (b), a financial institution shall do one (1) of the following:

- (1) Identify employers by comparing records maintained by the financial institution with records provided by the department by:**
 - (A) name; and**
 - (B) either:**

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(i) Social Security number; or

(ii) federal tax identification number.

(2) Comply with IC 31-25-4-31(c)(2). The child support bureau established by IC 31-25-3-1 shall regularly make reports submitted under IC 31-25-4-31(c)(2) accessible to the department or its agents for use only in the collection of unpaid final assessments described in subsection (b)(2).

(d) The information required under subsection (b) must:

(1) be provided on a quarterly basis; and

(2) include:

(A) the name;

(B) the address of record; and

(C) either:

(i) the Social Security number; or

(ii) the federal tax identification number;

of the employers identified under subsection (b).

(e) When the department determines that the information required under subsection (d)(2) is identical for an employer that holds an account with a financial institution and an employer that is subject to a warrant issued by the commissioner for failure to pay a final assessment for contributions, interest, penalties, and any associated collection costs, the department or its agents shall provide a notice of the match to the financial institution if action is to be initiated to issue a warrant to levy upon or encumber the account.

(f) This section does not preclude a financial institution from exercising its right to:

(1) charge back or recoup a deposit to an account; or

(2) set off from an account held by the financial institution in which the employer has an interest in any debts owed to the financial institution that existed before:

(A) the department's warrant; and

(B) notification to the financial institution of the department's warrant.

(g) A financial institution ordered to block or encumber an account under this section is entitled to collect its normally scheduled account activity fees to maintain the account during the period the account is blocked or encumbered.

(h) All information provided by a financial institution under this section is confidential and is available only to the department or its agents for use only in the collection of unpaid final assessments described in subsection (b)(2).

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(i) A financial institution providing information required under this section is not liable for:

(1) disclosing the required information to the department or the child support bureau established by IC 31-25-3-1;

(2) blocking or surrendering an individual's assets in response to a levy imposed under this section by:

(A) the department; or

(B) a person or an entity acting on behalf of the department; or

(3) any other action taken in good faith to comply with this section.

(j) A person or an entity that is acting on behalf of the department is not liable for any action taken under this section in good faith to collect unpaid final assessments described in subsection (b)(2) unless:

(1) the action is contrary to the department's direction to the person or entity; or

(2) for information provided under this section, the person or entity acts with:

(A) deliberate ignorance of the truth or falsity of the information; or

(B) reckless disregard for the truth or falsity of the information.

(k) The department or its agents shall pay a financial institution performing the data match required by this section a reasonable fee, as determined by the department, of at least five dollars (\$5) for each warrant issued to the financial institution.

(l) This section does not prevent the department or its agents from encumbering an employer's account with a financial institution by any other remedy available under the law.

SECTION 3. IC 22-4-31-6, AS AMENDED BY P.L.108-2006, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) If, after due notice, any employing unit defaults in the payment of any contributions or other money payments required by this article, the amount due may be collected by civil action in the name of the state of Indiana on the relation of the department. Such civil action is not to be considered as the exclusive method for collection of the contributions or money payments but is in addition to the method provided in IC 22-4-29-2 through ~~IC 22-4-29-12~~ **IC 22-4-29-14** and is to be brought only in such cases as the department may deem advisable in the interest of necessity and convenience.

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(b) Unless the employing unit prevails in a civil action brought under this chapter, the court may award costs, including reasonable attorney's fees, incurred by the state in bringing the action.

SECTION 4. IC 31-25-4-31, AS AMENDED BY P.L.103-2007, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) The bureau shall operate a data match system with each financial institution doing business in Indiana.

(b) Each financial institution doing business in Indiana shall provide information to the bureau on all noncustodial parents who:

- (1) hold one (1) or more accounts with the financial institution; and
- (2) are delinquent.

(c) In order to provide the information required under subsection (b), a financial institution shall either:

- (1) identify noncustodial parents by comparing records maintained by the financial institution with records provided by the bureau by:

(A) name; and

(B) either Social Security number or tax identification number; or

- (2) submit to the bureau a report, in a form satisfactory to the bureau, that includes the Social Security number or tax identification number of each individual maintaining an account at the financial institution. **The reports submitted under this subdivision must be accessible to:**

(A) the department of state revenue established by IC 6-8.1-2-1 or its agents for use only in tax judgment and levy administration described in IC 6-8.1-8-8.7(b)(2); or

(B) the department of workforce development established by IC 22-4.1-2-1 or its agents for use only in the collection of unpaid final assessments described in IC 22-4-29-14(b)(2).

(d) The information required under subsection (b) must:

- (1) be provided on a quarterly basis; and

(2) include the:

(A) name;

(B) address of record; and

(C) either the Social Security number or tax identification number;

of an individual identified under subsection (b).

(e) When the bureau has determined that the information required under subsection (d)(2) is identical for an individual who holds an

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1 account with a financial institution and an individual whose name
 2 appears on the quarterly list prepared by the bureau under section 30
 3 of this chapter, the bureau shall provide a notice of the match if action
 4 is to be initiated to block or encumber the account by establishing a
 5 lien for child support payment to the:

6 (1) individual; and

7 (2) financial institution holding the account.

8 (f) The notice under section (e) must inform the individual that:

9 (1) the individual's account in a financial institution is subject to
 10 a child support lien; and

11 (2) the individual may file an appeal with the bureau within
 12 twenty (20) days after the date the notice was issued.

13 (g) The bureau shall hold a hearing under 470 IAC 1-4. The
 14 department's final action following a hearing held under this subsection
 15 is subject to judicial review as provided in 470 IAC 1-4.

16 (h) The state's lien on assets under this section is subordinate to any
 17 prior lien perfected by:

18 (1) a financial institution; or

19 (2) another legitimate lien holder.

20 (i) A lien issued under this section remains in effect until the earliest
 21 of:

22 (1) one hundred twenty (120) days after issuance;

23 (2) the date the asset on which the lien is issued is surrendered; or

24 (3) the date the lien is released by an action of the bureau.

25 (j) This section does not preclude a financial institution from
 26 exercising its right to:

27 (1) charge back or recoup a deposit to an account; or

28 (2) set off from an account held by the financial institution in
 29 which the noncustodial parent has an interest in any debts owed
 30 to the financial institution that existed before:

31 (A) the state's lien; and

32 (B) notification to the financial institution of the child support
 33 delinquency.

34 (k) A financial institution ordered to block or encumber an account
 35 under this section is entitled to collect its normally scheduled account
 36 activity fees to maintain the account during the period the account is
 37 blocked or encumbered.

38 (l) All information provided by a financial institution under this
 39 section is confidential and is available only to the bureau or its agents
 40 for use only in child support enforcement activities.

41 (m) A financial institution providing information required under this
 42 section is not liable for:

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(1) disclosing the required information to the bureau, **the department of state revenue established by IC 6-8.1-2-1, or the department of workforce development established by IC 22-4.1-2-1;**

(2) blocking or surrendering any of an individual's assets in response to a lien imposed by:

(A) the bureau under this section; or

(B) a person or entity acting on behalf of the bureau; or

(3) any other action taken in good faith to comply with this section.

(n) The department shall pay a financial institution performing the data match required by this section a reasonable fee for providing the service that does not exceed the actual cost incurred by the financial institution.

(o) This section does not prevent the bureau or its agents from encumbering an obligor's account with a financial institution by any other remedy available for the enforcement of a child support order.

SECTION 5. IC 34-30-2-16.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16.8. IC 6-8.1-8-8.7 (Concerning actions taken to collect tax judgments and levies).**

SECTION 6. IC 34-30-2-86.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 86.7. IC 22-4-29-14 (Concerning actions taken to collect unemployment insurance assessments.)**

SECTION 7. **An emergency is declared for this act.**

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